CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	V	Force		Discourt.	☐ U.S.
Ariel Courage		Squad #6	201407332	Ø	Abuse		O.L.	✓ Injury
Incident Date(s)		Location of Incident:	•	F	Precinct:	18	Mo. SOL	EO SOL
Sunday, 07/13/2014 1:01 AM		East 51st Street and 5	th Avenue		18	1,	/13/2016	1/13/2016
Date/Time CV Reported		CV Reported At:	How CV Reported:	:	Date/Time	Rece	eived at CCI	RB
Sun, 07/20/2014 4:47 PM		CCRB	On-line website		Sun, 07/20	0/2014	4 4:48 PM	
Complainant/Victim	Type	Home Addr	ess					
Witness(es)		Home Addr	ess					
Subject Officer(s)	Shield	TaxID	Command					
1. DTS James Coll	01121		ESS 01					
2. DTS Robert Mcgee	01121	918865 933983	ESS 01					
3. SGT Steven Cameron	01408	943043	MTN PCT					
4. LT Michael Gandolfi	00000	938525	MTN PCT					
5. POM James Gallagher	26182	891541	MTN PCT					
Witness Officer(s)	Shield No		Cmd Name					
1. POM William Walsh	17077	935949	MTN PCT					
2. POM Timothy Tierney	20591	943876	MTN PCT					
3. SDS Samuel Panuccio	02848	875727	DB MAN					
4. POM James Smith	26657	933364	MTN PCT					
5. POM Robert Holzapfel	05652	949111	MTN PCT					
6. POM Darian Shannon	30638	916678	MTN PCT					
Officer(s)	Allegatio	n			Inve	estiga	ator Recon	nmendation
A.LT Michael Gandolfi	Force: Lie against § 8	eutenant Michael Gand	dolfi used physical fo	rce				
B.DTS James Coll	Force: De	tective Specialist Jam g device against § 87(2)(t		hal				
C.DTS Robert Mcgee	Force: De	tective Specialist Rob	ert McGee used a nor	nletl	nal			

Officer(s)	Allegation	Investigator Recommendation
D.SGT Steven Cameron	Abuse: Sergeant Steven Cameron did not obtain medical treatment for §87(2)(b)	
E.POM James Gallagher	Abuse: Police Officer James Gallagher did not obtain medical treatment for \$87(2)(b)	
§ 87(4-b), § 87(2)(g)		

Case Summary

On July 20, 2014, § 87(2)(b) filed this complaint with the CCRB online on behalf of her cousin, § 87(2)(b) who had died while in police custody on July 13, 2014 (BR 01). The case was simultaneously investigated by Sgt. John Flynn of IAB Group 54 (BR 02 to 19). Due to the news coverage of this incident (BR 20), this case was placed on the Sensitive Case List. The statute of limitations for this case expired on January 13, 2016. On August 5, 2014, ADA Barbara Hutter of the Manhattan District Attorney's Office placed the case on a hold (BR 21). As of the closing of this report, the hold remains active. §87(2)(9) On July 13, 2014, at approximately 1:01 a.m., at East 51st Street and 5th Avenue in a taxi driver, flagged down a police officer, PO Darian Shannon of the 18th Precinct, for help with a passenger behaving erratically, § 87(2)(b) PO Shannon requested additional officers via radio. Numerous officers of the 18th Precinct, including Lt. Michael Gandolfi, PO James Smith, PO William Walsh, Sgt. Steven Cameron, PO James Gallagher, PO Timothy Tierney, and PO Robert Holzapfel, responded. Lt. Michael Gandolfi grabbed § 87(2)(b) brought him onto the ground (Allegation A). Lt. Gandolfi requested that ESU respond. Upon arrival, Det. James Coll and Det. Robert McGee of ESU placed § 87(2)(b) into a mesh restraint bag (Allegations B and C). EMS was requested to the scene and multiple EMS units responded, including \$37(2)(b) and § 87(2)(b) FDNY EMTs § 87(2)(b) and FDNY Lt. § 87(2)(b) DTS Coll and DTS McGee placed on his left side on the stretcher, but as he was brought to the ambulance rolled onto his face. EMT § 87(2)(b) requested that Sgt. Cameron rotate § on the stretcher. Sgt. Cameron responded, "He needs to go to Bellevue," and did not rotate § 87(2)(b) as requested (Allegation D). EMT § 87(2)(b) then called Lt. § 87(2)(b) attention. Lt. §87(2)(b) asked another officer standing outside the ambulance, identified by the investigation as PO James Gallagher, to rotate §87(2)(b) onto his back. PO Gallagher did not respond and did not turn § 87(2)(b) over (Allegation E). Lt. § 87(2)(6) then approached DTS Coll and DTS McGee, who complied with her request. DTS Coll did not prepare a memo book entry about this incident (**Allegation F**). was transported to § 87(2)(b) where he was pronounced dead on arrival (BR 55). This case resulted in no summonses and no arrests. On August 15, 2014, a TARU request was returned with negative results (BR 22), and field work was performed on July of 2014, which also returned negative results upon canvass for video footage (BR 23), as IAB and the District Attorney's Office had previously seized video from the TARU camera and from the Saks Fifth Avenue located at 611 5th Avenue in Manhattan. As of the closing of this report, both IAB and the District Attorney's office have declined to release the video footage to the CCRB.

Mediation, Civil and Criminal Histories

this case was not eligible for mediation.

Page 2 CCRB Case #201407332

On October 10, 2014, \$87(2)(b) s mother, \$87(2)(b) filed a Notice of Claim against the City of New York, the NYPD, the NYPD Emergency Services Uni FDNY, and a total of 25 unknown police officers, claiming excessive police force and brutality, personal injuries, false arrest, false imprisonment, assault, battery, severe mental and emotional distress, delay in receiving life-saving medical and emergency treatment, lost income for hospital, autopsy, funeral, and other related expenses, and seeking a total of \$41,000,000 as redress (BR 24).
§ 87(2)(b)
Civilian and Officer CCRB Histories
§ 87(2)(b)
Lt. Gandolfi has been a member of the service for 10 years. There are three prior allegations against him across three cases that occurred between 2006 and 2009, none which was substantiated. §87(2)(9)
DTS Coll has been a member of the service for 19 years. There are five prior allegation against him across two cases that occurred in 1999 and 2002, none of which was substantiated. [Se7(2)(9)]
DTS McGee has been a member of the service for 12 years. There are two allegations against him across two other cases, one of which occurred in 2006 and the other in 20 neither of which was substantiated. §87(2)(9)
Sgt. Cameron has been a member of the service for 9 years. There are 10 allegations against him across seven prior cases occurring between 2010 and the present date, no of which was substantiated. [887(2)[9]]
PO James Gallagher has been a member of the service for 29 years. There are three pallegations against him from two cases that occurred in 1990 and in 1999, none of who was substantiated. [887(2)(9)]
Potential Issues

<u>Potential Issues</u>
As was discussed above, due to the ongoing DA hold, the investigation has not been able to obtain video footage of this incident.

Page 3 CCRB Case #201407332

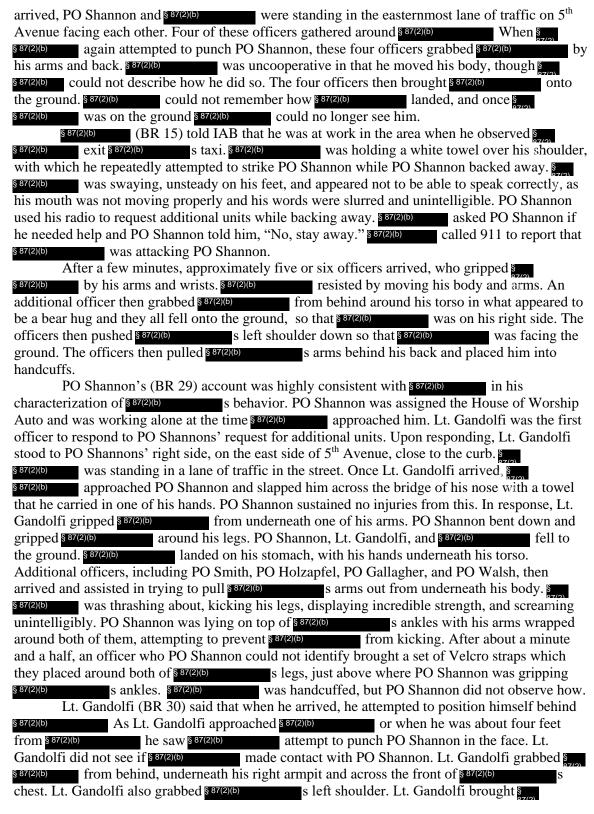
by the investigation as \$87(2)(b) and one of the paramedics, \$87(2)(b) but was not able to obtain statements from either of them.
Conclusion Line 1: 0.000
• S87(2)(b) EMT S87(2)(b) described the officer who refused to acknowledge his request to rotate \$87(2)(b) as a white male who he believed to be a Sergeant based upon the stripes on the sleeves of his uniform, 5'6" to 5'8" tall, in his 30s, slimly built, with short and spiky black hair. EMT \$87(2) also described this officer as a white male with black hair, shorter than EMT \$87(2) (who is 6'1" tall), slightly muscular build, 43 to 44 years old, and possibly a Sergeant. The only officer identified as being present on scene who closely matches the provided description is Sgt. Steven Cameron, a 31 year old white male, 5'8" tall, 176 pounds, with average build, brown eyes, and spiky black hair. \$87(2)(9)
• FDNY Lt. \$87(2)(b) described the officer who refused to rotate \$87(2)(b) on the stretcher as a uniformed white male with salt and pepper hair, in his 40s, between 5'11" and 6'0" tall, with a moustache. Though PO Gallagher denied ever hearing such a request or refusing to acknowledge such a request, as a white male, 49 years old, with salt and pepper hair and a moustache, PO Gallagher most closely matches the provided description. \$87(2)(9)
Investigative Findings and Recommendations
• Physical Force: Multiple officers acknowledged that they used some level of physical force against \$87(2)(b) in the course of handcuffing him, including PO Shannon, Lt. Gandolfi, PO Smith, and PO Holzapfel. \$87(2)(9)
• Refusal to obtain medical treatment: FDNY Lt. \$37(2)(b) said that after failing to receive a response from PO Gallagher to her request that \$37(2)(b) be rotated, she turned to an ESU officer, identified by the investigation as Det. James McGee, and repeated her request. DTS McGee responded by saying, "He needs to go to Bellevue," and, "He's on his side." Lt. \$37(2)(b) again repeated her request and then was drawn back to the west side of 5 th Avenue before she could see whether or not DTS McGee complied with her request. According to EMT \$37(2)(c) and EMT \$37(2)(c) after Lt. \$37(2)(c) spoke to them, two ESU officers approached and rotated \$37(2)(b) onto his face \$37(2)(g)

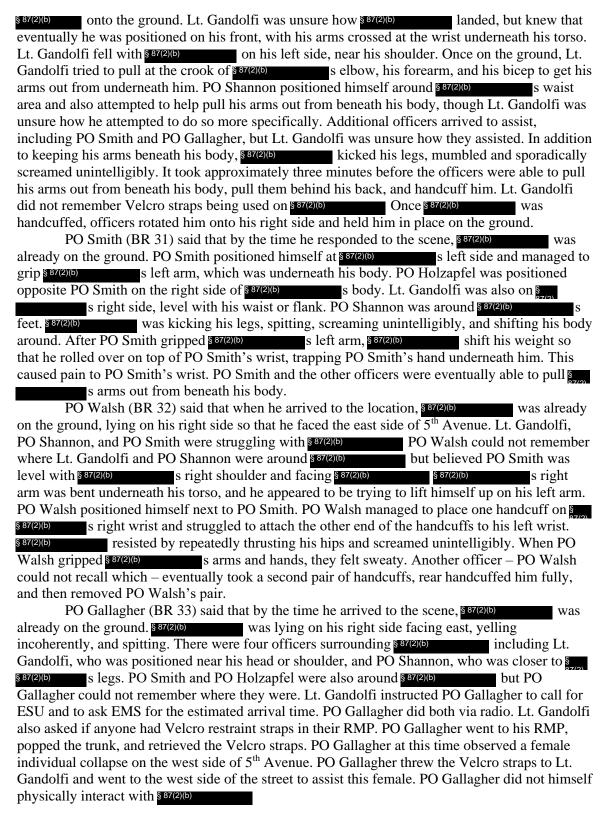
Page 4 CCRB Case #201407332

Allegation A – Force: Lieutenant Michael Gandolfi used physical force against Although § 87(2)(b) filed a Notice of Claim alleging excessive use of physical force and brutality by the police, § 87(2)(6) was not a witness to this incident. s cousin, § 87(2)(b) who filed this CCRB complaint, was also not a witness to the incident. Based upon interviews with § 87(2)(b) officer statements, the Medical Examiner's report, and the IAB investigation, the following facts were established: As per the Medical Examiner's report and autopsy report (BR 26), §87(2)(b) positive for phencyclidine, or PCP. Although \$87(2)(b) had only a low level of PCP in his blood, Dr. Stahl-Herz of the Medical Examiner's office informed IAB that any amount of PCP in a person's blood can cause them to behave irrationally or bring about excited delirium (BR 02). The Medical Examiner's Report also indicated that §87(2)(b) had the following physical injuries: a small cluster of dry red abrasions on the right cheek, two clusters of abrasions on the right side of the head, an abrasion on and below his left ear, and a contused abrasion on his left cheek, abrasions on his right arm, abrasions on the side of his right hand, and abrasions to both of his knees. There were subcutaneous hemorrhages located on his mid-back and the right side of his lower back, as well as bruises to both his left and right wrists. On July 13, 2014, §87(2)(b) (BR 27 and 28) was working as a taxi driver when he picked up a passenger, § 87(2)(b) at 99th Street and Lexington Avenue, who initially wanted to be brought to 145th Street and St. Nicholas Avenue but later changed his mind and demanded to be brought to the Empire State Building. § 37(2)(b) behaved erratically while in § s cab: he yelled intermittently, opened the rear passenger door while the cab was in motion, stared at § 87(2)(b) and gave confusing directions to him, including telling § \$87(2)(b) to drive the wrong way down one-way streets. \$87(2)(b) thought \$87(2)(b) might have been intoxicated based upon his strange behavior, but could not tell on what substance, and did not observe any physical signs of intoxication. was driving west on East 51st Street from Park Avenue towards 5th Avenue, he saw an officer, identified by the investigation as PO Darian Shannon, parked on the south side of East 51st Street, and asked for his assistance. PO Shannon attempted to speak to who responded by making strange, non-sequitur statements. PO Shannon then had make a left turn and stop on the east side of 5th Avenue between East 50th Street and East 51st Street in front of St. Patrick's Cathedral. PO Shannon moved his vehicle to park behind § 87(2)(b) said that PO Shannon then approached \$87(2)(6) s cab on its driver side once or twice, "Sir, can you step out?" §87(2)(b) and asked § 87(2)(b) refused and screamed, "Show me your ID. I'm going to arrest you!" PO Shannon then used his radio to request additional officers to the scene. As he did so, \$87(2)(b) exited \$87(2)(b) on the passenger side and walked around its rear to approach PO Shannon. § 87(2)(b) attempted to punch PO Shannon. PO Shannon stepped away, or further north towards East 51st s strike. § 87(2)(b) Street, to dodge § 87(2)(b) followed PO Shannon. § 87(2)(b) started to sing, and appeared to be dancing, as he shook his body from side to side, while continuing to attempt to punch PO Shannon about four or five times. §87(2)(b) at PO Shannon, but what he said was unintelligible.

After a minute or two, additional officers began to arrive, identified by the investigation as Lt. James Gandolfi, PO James Smith, PO William Walsh, Sgt. Steven Cameron, PO James Gallagher, PO Timothy Tierney, and PO Robert Holzapfel. By the time the additional officers

Page 5
CCRB Case #201407332





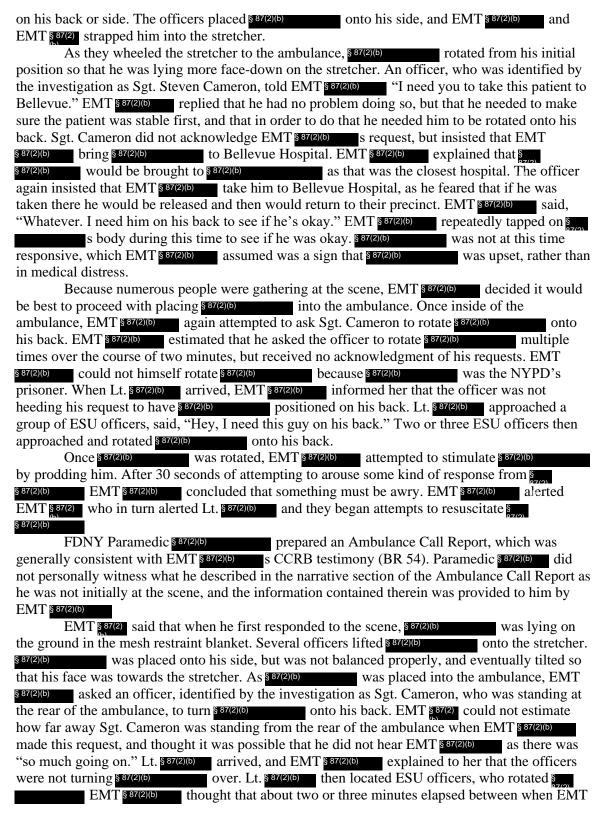
PO Tierney (BR 34) did not assist directly in the struggle to handcuff §87(2)(b) and did not see how officers handcuffed him, but did observe him struggling on the ground with approximately four officers by kicking his legs and shifting his body. PO Tierney placed the Velcro strap retrieved by PO Gallagher around § 87(2)(6) s legs. Sgt. Cameron (BR 35) was working with PO Tierney, and also did not assist in the struggle to handcuff § 87(2)(b) The police documentation relating to this incident, including the AIDED (BR 36), UF-49 (BR 37), the UF-61 (BR 38) the EVENT and communications CD (BR 39 to 43) is generally consistent with the accounts described above. Sgt. Flynn's investigation (BR 02 to 19) concluded that no officer used excessive physical force against § 87(2)(b) Officers must use the minimum level of physical force necessary to overcome resistance and effect an arrest or restrain an emotionally disturbed person. Patrol Guide Procedure 203-11 (BR 44) § 87(2)(g) § 87(2)(g) Allegation B – Force: Detective Specialist James Coll used a nonlethal restraining device against § 87(2)(b) Allegation C – Force: Detective Specialist Robert McGee used a nonlethal restraining device against § 87(2)(b) It is undisputed that after § 87(2)(b) was handcuffed, two ESU officers, DTS Coll and DTS McGee, were requested to the scene, and that upon arrival they placed \$87(2)(b) into a full-body mesh restraint bag. In the course of the IAB investigation, photographs were taken of the ESU bag used to (BR 12 to 13). The Medical Examiner's report documents that expired after being restrained by police in a state of excited delirium brought about by acute PCP intoxication (BR 26). DTS Coll (BR 45) and DTS McGee (BR 46) both explained that when they arrived to the scene, § 87(2)(b) was lying on his right side on the ground. § 87(2)(b) was rear

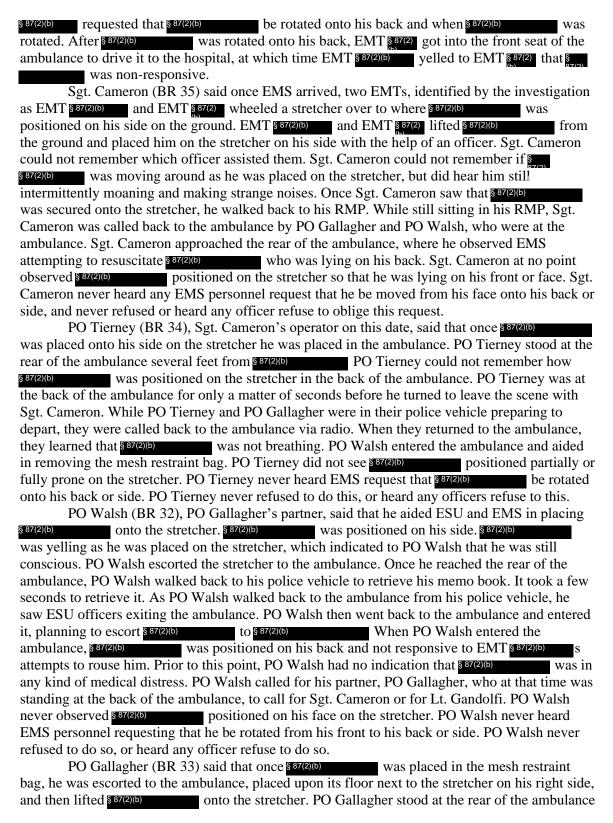
Page 8
CCRB Case #201407332

handcuffed. §87(2)(b) was thrashing his full body. DTS Coll and DTS McGee spoke briefly
with the officers on scene, who informed DTS Coll that \$87(2)(b) had attempted to attack
an officer, and that there had been a struggle to handcuff him. DTS McGee added that he also
overheard an officer – he could not remember which – state that \$87(2)(b) had attempted to
bite an officer.
DTS Coll and DTS McGee both said they used the mesh restraint bag against
because they feared that § 87(2)(b) might still pose a threat to himself or to
officers. They feared this based upon the following factors: the description of the struggle
between §87(2)(b) and officers that he heard both via radio and from officers at the scene
and the manner in which he continued to thrash his body. Although \$87(2)(b) was
restrained in handcuffs, he was still displaying physical resistance, and could still have hurt
himself or officers by banging his head against the ground, biting, or spitting. §87(2)(b) was
not displaying any signs of medical distress at the time the bag was used. Neither DTS Coll nor
DTS McGee remembered having any indication that \$87(2)(b) was intoxicated. DTS Coll
described \$87(2)(b) as making nonverbal noises that sounded like "angry grunting," while
DTS McGee described only hearing \$87(2)(6) breathe. Both DTS Coll and DTS McGee
thought that the mesh restraint blanket would be the best means of restraining §87(2)(b)
more completely, as it would both prevent him from harming any officers and prevent officers
from needing to use further force against him.
DTS Coll did not remember \$87(2)(b) having been restrained with a Velcro strap
around his legs. DTS McGee recalled that a Velcro strap was around \$87(2)(6) s legs when
he first responded. The Velcro strap was left upon \$87(2)(6) when he was placed in the
mesh restraint bag. The strap was left around his legs in the event that, when the mesh restraint
bag was removed at the hospital, §87(2)(b) began attempting to kick again.
To place \$87(2)(b) into the bag, DTS McGee and DTS Coll laid the mesh restraint
bag on the ground next to \$87(2)(b) The officers then lifted \$87(2)(b) and placed
him face-down atop the bag. The officers then wrapped the bag around his body and secured it
with straps around \$87(2)(b) s ankles and hips. \$87(2)(b) continued to thrash his
body as DTS McGee and DTS Coll placed him into the bag. It took a few seconds to place
fully in the bag. Once \$87(2)(6) was secured into the bag, DTS McGee and
DTS Coll rotated \$87(2)(6) on to his left side while they awaited the arrival of the
ambulance. It took between 15 and 20 minutes for the ambulance to arrive. §87(2)(6)
seemed to relax in those 15 or 20 minutes insofar as he went from thrashing his body to lying
still. DTS McGee could see during this time that \$87(2)(b) was still breathing, and heard
his breathing become more relaxed.
The ESU report (BR 47) prepared by DTS Coll was generally consistent with the
accounts provided by DTS McGee and DTS Coll.
Persons taken into custody, including those considered to be under arrest, the mentally ill,
and the emotionally disturbed, should be rear cuffed at the earliest opportunity to reduce the
potential for resistance, which may cause injuries. In addition, alternate restraining devices, such
as Velcro straps and mesh restraining blankets, shall be used at the earliest opportunity to restrain
or to further restrain a subject whose actions or behavior may cause injury to himself or others.
Patrol Guide Section 203-11 (BR 44)
§ 87(2)(g)

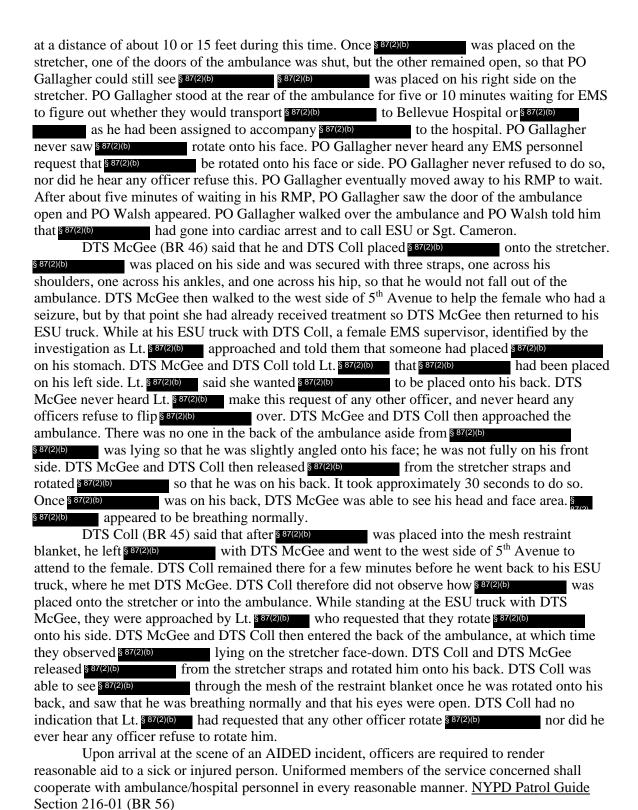
Page 10 **CCRB Case #201407332**

positioned on the stretcher, and EMT \$87(2)(b) and EMT \$87(2) replied that they would like him





Page 12 **CCRB Case #201407332**



Page 13 CCRB Case #201407332

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87(4-b), § 87(2)(g)			

Page 14 CCRB Case #201407332

Team: _____

Investigate	or:		
	Signature	Print	Date
Supervisor	r:	<u> </u>	
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Reviewer:			
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